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**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF ARIZONA**

8 | In re:

No. 10-36466-EWH

## 9 Rene Daudelin and Stacy Daudelin,

Chapter 13

**Debtors.**

## **OBJECTION TO CHAPTER 13 PLAN**

## **1. FACTUAL BACKGROUND**

16 AmeriCredit Financial Services, Inc. is a secured creditor of debtor  
17 (“debtor” means Rene Daudelin whether single or plural) on the following personal  
18 property:

19 | 2007 Hyundai Sonata

VIN # 5NPET46C37H182067

(the collateral"). AmeriCredit Financial Services, Inc. possesses a valid, perfected, first priority lien against the collateral. The lien and the debt which it secures are evidenced

1 by a retail installment contract executed by debtor on August 13, 2010, and a lien filing  
2 receipt, copies of which are attached hereto as Exhibits "A" and "B".

3                   The unpaid balance of the debt is \$10,674.50 plus accrued and accruing  
4 interest, costs and attorneys' fees. The debtor has been in default to AmeriCredit  
5 Financial Services, Inc. on this loan since November 2010.

6                   Debtor's plan proposes to pay AmeriCredit Financial Services, Inc.  
7 \$9,000.00 on its secured loan together with interest thereon at the rate of five percent  
8 (5%) per annum and \$90.00 per month in adequate protection payments. AmeriCredit  
9 Financial Services, Inc. objects to its treatment under the plan.

10                  **2. LEGAL ARGUMENT**

11                  A.     Bankruptcy case was filed less than 910 days after purchase  
12 of loan.

13                  Debtor obtained the loan through AmeriCredit Financial Services, Inc. on  
14 August 13, 2010. The bankruptcy case was opened on November 11, 2010. There were  
15 less than 910 days from the date of the purchase of the vehicle and the filing of the  
16 bankruptcy. Therefore the debtor may not cram down the value of the 2007 Hyundai  
17 Sonata. 11 U.S.C. § 1325(a) ("For purposes of paragraph (5), section 506 shall not apply  
18 to a claim described in that paragraph if the creditor has a purchase money security  
19 interest securing the debt that is the subject claim, the debt was incurred within the 910-  
20 day preceding the date of the filing of the petition, and the collateral for that debt  
21 consists of a motor vehicle (as defined in section 30102 of title 49) acquired for personal  
22 use of the debtor").

1                   B. Debtor's plan does not propose enough adequate protection  
2 payments.

3                   Debtor's plan does not propose enough adequate protection payments. By  
4 the time AmeriCredit Financial Services, Inc. is scheduled to receive a payment under  
5 the plan, it will have gone several months without a payment on the debt. During this  
6 time period, the collateral securing the debt to AmeriCredit Financial Services, Inc. will  
7 be depreciating. The plan proposed by debtor does not provide for payments to begin  
8 immediately that would protect AmeriCredit Financial Services, Inc.'s collateral against  
9 depreciation. Collateral of this type depreciates at a fairly rapid rate and it is  
10 AmeriCredit Financial Services, Inc.'s position that any such delay is unreasonable and  
11 lacking in adequate protection.

12                  AmeriCredit Financial Services, Inc. requests adequate protection in the  
13 amount of 1% of the value that is the value of the collateral pursuant to 11 U.S.C.  
14 1325(a), 1326, and General Order No. 95.

15                  3. **CONCLUSION**

16                  For the reasons that the Bankruptcy case was filed less than 910 days after  
17 purchase of loan; that AmeriCredit Financial Services, Inc. is not adequately protected,  
18 AmeriCredit Financial Services, Inc. requests that this Court deny confirmation of  
19 debtor's Chapter 13 Plan.

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1 DATED this 6th day of January, 2011.

2 Poli & Ball, P.L.C.

3

4

By /s/ James B. Ball

5 James B. Ball

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8 Attorneys for AmeriCredit Financial  
Services, Inc.

9 COPIES of the foregoing mailed  
10 this 6<sup>th</sup> day of January, 2011, to:

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12 Stacy Daudelin  
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15 Debtor

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24 /s/ Karma Holmes

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